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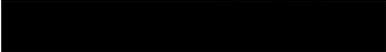
U.S. Citizenship
and Immigration
Services

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FILE:  Office: SAN FRANCISCO, CALIFORNIA Date: **AUG 16 2005**

IN RE: Applicant: 

APPLICATION: Application for Waiver of Grounds of Inadmissibility under § 212(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(i)

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Application for a Waiver of Inadmissibility was denied by the Acting District Director, San Francisco, California, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

The record reflects that on May 30, 2003, the acting district director found that the applicant was inadmissible to the U.S. pursuant to § 212(a)(6)(C)(i) of the Immigration and Nationality Act ("the Act"), 8 U.S.C. § 1182(a)(6)(C)(i), as an alien who attempted to procure a benefit under the Act through fraud or misrepresentation. The acting district director concluded that the applicant had failed to establish that her qualifying relative (husband) would experience extreme hardship on account of her inadmissibility.

In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party must file the complete appeal within 30 days of after service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b).

The record indicates that the director issued the decision on May 30, 2003 and gave notice to the applicant that she had 33 days to file the appeal. Citizenship and Immigration Services received the appeal on July 23, 2003, or 54 days after the decision was issued. Accordingly, the appeal was untimely filed.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(2) states that, if an untimely appeal meets the requirements of a motion to reopen or a motion to reconsider, the appeal must be treated as a motion, and a decision must be made on the merits of the case. The official having jurisdiction over a motion is the official who made the last decision in the proceeding, in this case the acting district director. *See* 8 C.F.R. § 103.5(a)(1)(ii). The acting district director declined to treat the late appeal as a motion and forwarded the matter to the AAO.

As the appeal was untimely filed, the appeal must be rejected.

ORDER: The appeal is rejected.